

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

KEVIN CHRISTOPHER SHIPMAN,)	
# 241636,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 1:18-CV-913-WKW
)	[WO]
MICHAEL STRICKLAND, <i>et al.</i> ,)	
)	
Respondents.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

On December 17, 2018, this court entered an order directing Petitioner Kevin Christopher Shipman, a state inmate at Ventress Correctional Facility, to either submit the \$5.00 filing fee by December 27, 2018, or file by that same date the appropriate affidavit to support a motion for leave to proceed *in forma pauperis* in this § 2254 action accompanied by a prison account statement from the account clerk at Ventress containing the account clerk's certified statement of the balance in Shipman's prison account when he filed his § 2254 petition. Doc. # 6. The court specifically cautioned Shipman that his failure to comply with its December 17, 2018 order would result in a recommendation that his case be dismissed. *Id.* at 2.

The requisite time has passed, and Shipman has filed nothing in response to the court's December 17, 2018 order. Consequently, the court concludes that dismissal of this case without prejudice is appropriate for Shipman's failure to comply with the court's order. *See Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989) (generally, where a

litigant has been forewarned, dismissal for failure to obey a court order is not an abuse of discretion).

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be DISMISSED WITHOUT PREJUDICE for Petitioner Shipman's failure to comply with the order of this court.

It is further ORDERED that on or before February 5, 2019, Shipman may file objections to the Recommendation. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation to which he objects. Frivolous, conclusive or general objections will not be considered by the District Court. Shipman is advised that this Recommendation is not a final order; therefore, it is not appealable.

Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge's report shall bar a party from a *de novo* determination by the District Court of factual findings and legal issues covered in the report and shall "waive the right to challenge on appeal the district court's order based on unobjected-to factual and legal conclusions" except upon grounds of plain error if necessary in the interests of justice. 11TH Cir. R. 3-1; *see Resolution Trust Co. v. Hallmark Builders, Inc.*, 996 F.2d 1144, 1149 (11th Cir. 1993).

DONE this 22nd day of January, 2019.

/s/ Charles S. Coody
CHARLES S. COODY
UNITED STATES MAGISTRATE JUDGE